IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.274 OF 2006

IN

NOTICE OF MOTION NO.556 OF 2006

IN

LONG CAUSE SUIT NO.608 OF 2006

WITH

CIVIL APPLICATION NO.360 OF 2006

Banwari B.Kanojia ...Appellant

Versus

Brihanmumbai Municipal Corporation

& Ors. ...Respondents

.....

Mr.Santosh Shetty i/b M/s.M.P.Vashi & Associates for Appellant.

Mr.D.D.Madan i/b Pathak & Co. for Respondents.

Mrs.Joglekar for Respondent No.1.

Mr.Y.S.Jahagirdar, Sr.Counsel with Mr.Kirit Modi i/b Mr.B.B.Parekh for Respondent No.4.

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CORAM: A.M.KHANWILKAR, J.

MAY 3, 2006.

P.C.

1. Heard Counsel for the parties. Perused the relevant documents on record.

2. I see no reason to overturn the conclusion reached by the Court below in rejecting the Notice of Motion taken out by the Appellant for interim relief during the pendency of the Suit. Besides, for the reasons recorded in the impugned Judgment with which I am in agreement, it is inconceivable that any relief can be granted to the Appellant/Plaintiff having regard to the fact that it is now Defendant No.4 who is developing the property. There is no privity of contract between Appellant and Defendant No.4. Besides, no substantive relief is claimed against Defendant No.4 in the Suit as filed. Even on this reason, the impugned Judgment will have to be upheld. Hence, dismissed.

3. Having regard to the nature of the dispute involved, hearing of the Suit is expedited. The Trial Court may dispose of the Suit expeditiously, preferably by end of June 2007.

4. Needless to observe that the Suit will have to be decided on its own merits in accordance with law uninfluenced by the observations made in the impugned Judgment or for that matter, the present order.

A.M.KHANWILKAR, J.